

Application No. 10/679,916  
Docket No. IB-10 (A4-1766)  
Amendment dated August 4, 2006  
Reply to Office Action of May 4, 2006

**RECEIVED**  
**CENTRAL FAX CENTER**

**AUG 04 2006**

**REMARKS**

In the Office Action, the Examiner reviewed claims 1-38 of the above-identified US Patent Application, with the result that the specification was objected to, claim 32 was rejected under 35 USC §112, second paragraph, claims 9, 24, and 30 were rejected under 35 USC §101, and all of the claims were subject to prior art rejections under either 35 USC §102 or §103. In response, Applicants have amended the specification and claims as set forth above. More particularly:

The specification has also been amended at page 10 to insert the subject matter of original claims 33, 37, and 38.

The Abstract has been amended to more closely correspond to the invention of the pending claims.

The specification has been reviewed and amended to provide consistency of terminology and reference numbers, address typographical and grammatical matters, etc.

Independent claim 1 and its dependent claims have been amended to more particular specify the claimed subject matter as a "cardiac conduit system" comprising an "implantable cardiac conduit," as generally set forth in original dependent claim 9 and as described on page 1 of Applicants' specification under "Background of the Invention".

Application No. 10/679,916  
Docket No. IB-10 (A4-1766)  
Amendment dated August 4, 2006  
Reply to Office Action of May 4, 2006

In view of its limitations being incorporated into its parent claim 1, dependent claim 9 has been amended to recite a limitation found in Applicants' specification at the bottom of page 1.

The alternative limitations of claim 10 are now separately set forth in amended claims 10 and 11.

Dependent claims 24 and 30 have been amended so as not to recite any part of the human body as part of the claimed invention.

Dependent claims 19, 20, 23, 32, and 35 have been amended to eliminate the phrase "but not limited to."

Dependent claims 22 and 25 through 28 have been canceled without prejudice.

Dependent claims 23, 24, and 29 through 31 have been amended to depend from claim 21.

Dependent claim 36 has been amended to recite the inclusion of a "valve" in the context of the cardiac conduit being adapted for carrying blood flow to bypass valve aplasia or severe stenosis of the patient's heart." Support for this amendment can be found on page 1 of Applicants' specification under "Background of the Invention."

All of the claims have been reviewed and amended as necessary for consistency with amended independent claim 1 and to correct matters of a

Application No. 10/679,916  
Docket No. IB-10 (A4-1766)  
Amendment dated August 4, 2006  
Reply to Office Action of May 4, 2006

grammatical and typographical nature.

Applicants believe that the above amendments do not present new matter. Favorable reconsideration and allowance of remaining claims 1-21, 23, 24, and 29-38 are respectfully requested in view of the above amendments and the following remarks.

#### **Objection to the Specification**

The Examiner objected to the specification as failing to provide proper antecedent basis for the claimed subject matter, citing 37 CFR §1.75(d)(1) and MPEP §608.01(o). To overcome the objection, the Examiner suggested that Applicants incorporate the limitations of claim 33 into the specification. In response, Applicants have followed the Examiner's helpful suggestion regarding claim 33, as well as claims 37 and 38. As such, Applicants respectfully request withdrawal of the objection to the specification.

#### **Claim Rejection under 35 USC §112**

The Examiner rejected claim 32 for use of the phrase "but not limited to." This phrase was also found in original claims 19, 20, 23, and 35. All of the claims in question have been amended to eliminate the phrase "but not limited to," and as such Applicants respectfully request withdrawal of this rejection.

Application No. 10/679,916  
Docket No. IB-10 (A4-1766)  
Amendment dated August 4, 2006  
Reply to Office Action of May 4, 2006

### **Claim Rejections under 35 USC §101**

The Examiner rejected claims 9, 24, and 30 under 35 USC §101 as being directed to non-statutory subject matter, specifically, for positively claiming the human body. In response, Applicants have amended these claims in a manner that Applicants believe overcome the basis for the rejection. Applicants therefore respectfully request reconsideration and withdrawal of the rejection under 35 USC §101.

### **Prior Art Rejections under 35 USC §102 and §103**

Independent claim 1 and its remaining dependent claims were rejected under 35 USC §102 or §103 on the basis of the following prior art references: U.S. Patent No. 6,636,769 to Govari et al. (Govari I); U.S. Patent No. 6,053,873 to Govari et al. (Govari II); U.S. Patent No. 6,092,530 to Weissman et al.; and U.S. Patent No. 5,135,538 to Pawlak et al. Applicants respectfully request reconsideration of these rejections in view of the amendments presented above as well as the following comments.

Applicants' amended independent claim 1 is directed to a "cardiac conduit system" that includes an "implantable cardiac conduit adapted for blood bypass flow when implanted in a patient." The cardiac conduit system requires "at least one sensing device chronically located within said cardiac conduit" and

Application No. 10/679,916  
Docket No. IB-10 (A4-1766)  
Amendment dated August 4, 2006  
Reply to Office Action of May 4, 2006

equipped with "means for monitoring one or more physiological parameters for diagnosis of the condition of said cardiac conduit after said cardiac conduit is implanted in the patient." Furthermore, the system requires "a non-implantable readout device" capable of "electromagnetic telecommunication and electromagnetic wireless powering of said sensing device."

In contrast, Applicants believe that none of the applied prior art is directed to a system for monitoring an "implantable cardiac conduit adapted for carrying blood flow to bypass a conduit of a patient's heart when implanted in the patient." Instead, Applicants believe the prior art is limited to, at best, a stent (Govari II) or a heart valve (Pawlak et al.) Govari II's stent 24 does not provide bypass flow but instead is "inserted [following angioplasty] into the blood vessel at the widened location to support the vessel . . . and to maintain an open lumen." Govari II at column 1, lines 30-33. Pawlak et al.'s heart valve 10 does not appear to be capable of accommodating "at least one sensing device chronically located within" the valve 10.

For the above reasons, Applicants believe that the applied prior art does not disclose, teach, or suggest Applicants' invention as it is now recited in independent claim 1. Applicants therefore respectfully request withdrawal of the rejections to claim 1 and its dependent claims under 35 USC §§102 and 103.


Application No. 10/679,916  
Docket No. IB-10 (A4-1766)  
Amendment dated August 4, 2006  
Reply to Office Action of May 4, 2006

**Closing**

In view of the above, Applicants believe that all issues outstanding from the Office Action have been addressed, and that the claims define patentable novelty over all the references, alone or in combination, of record. It is therefore respectfully requested that this patent application be given favorable reconsideration.

Should the Examiner have any questions with respect to any matter now of record, Applicants' representative may be reached at (219) 462-4999.

Respectfully submitted,

By   
Gary M. Hartman  
Reg. No. 33,898

August 4, 2006  
Hartman & Hartman, P.C.  
Valparaiso, Indiana 46383  
TEL.: (219) 462-4999  
FAX: (219) 464-1166